M. Jus: Wayne

SUPREME COURT OF THE UNITED STATES.

No. 6 ORIGINAL.

EX PARTE: IN THE MATTER OF JOHN DUGAN, PETITIONER.

PETITION FOR A WRIT OF HABEAS CORPUS AND WRIT OF CERTIORARI TO THE JUDGES OF THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

GOVERNMENT PRINTING OFFICE.

1 To the honorable the justices of the Supreme Court of the United States:

The petition of John Dugan, of the city of Washington, humbly showeth that your petitioner is a native-born citizen of the United States, and as such hath always yielded and paid to the said government a true, hearty, spontaneous, and loyal allegiance, and never hath at any time done, or suffered or knowingly or willingly permitted or suffered anything to be done, which could in anywise affect or contribute to disturb the public safety of the said United States; that on the 24th day of May last past, while your petitioner was in the active and faithful discharge of his duties as chief detective of the metropolitan police in the city of Washington, he was arrested by one Captain Putnam, claiming to be a military provost marshal of the District of Columbia, who produced and exhibited to your petitioner, as his authority for so doing, an order signed L. C. Turner, judge advocate of the War Department, and thereupon the said Putnam took your petitioner to the Carroll Prison, in the city of Washington, and locked him up in charge of one William P. Wood, and the said William P. Wood hath ever since kept and detained, and still keeps and detains, your petitioner as prisoner in said Carroll Prison.

Your petitioner shows that he is guiltless of any crime, and is ignorant of the cause of his said arrest and detention; that none, so far as he knows and believes, was expressed in the said order for his arrest,

2 and he none since; that your petitioner applied by his petition to the justices of the supreme court of the District of Columbia for the writ of habeas corpus, in which petition it was erroneously stated that your petitioner was arrested by the said William P. Wood, under the authority of one L. C. Baker, which mistake arose from the difficulty of communicating with the counsel employed for him. The said writ was issued and addressed to the said William P. Wood, and your orator is informed and believes it to be true that said Wood made return thereto in substance and effect that your petitioner had been arrested and is now detained in custody by order or authority of the President of the United States, and thereupon the said supreme court remanded your petitioner to the custody of said Wood, all which will more fully appear by the said proceedings upon said petition on file in said court, true copies whereof are herewith produced and exhibited to this honorable court.

Your petitioner is advised that there is error in the said proceedings; that he is unlawfully held in custody; and he prays of this honorable court the writ of habeas corpus to bring the body of your petitioner before your honors, and also for the writ of certiorari to be adjudged to the said supreme court of the District of Columbia, commanding them to certify and return to your honors the record and proceedings in the said case of your petitioner in the said court, and your petitioner will ever, &c.

JOS. H. BRADLEY, *for petitioner.*

3 DISTRICT OF COLUMBIA, *Washington County, ss:*

Be it known that Catharine Dugan personally appeared, this 13th day of February, 1865, before me, and made oath according to law that she doth know that the said John Dugan, named in the petition hereto annexed, is now, and has been since the month of May last past, confined in "Carroll" Prison, in the city of Washington; and she is informed and believes it to be true that he has been so held in prison under and by virtue of the authority of the President of the United States, acting through the Secretary of War; and she says that since the commencement of the said imprisonment of said John Dugan there has been three terms of the criminal court of the Dis-

trict of Columbia held in the county aforesaid, and three grand juries, and no indictment, presentment, or other proceeding hath been found by either of said grand juries against the said John Dugan.

CATHARINE DUGAN.

Sworn to before me Feb'y 13, 1865.

R. J. MEIGS, *Clerk.*

Service of notice of motion to be heard on Friday admitted.

JAMES SPEED, *Att'y Gen'l.*

4 *Clerk's certificate.*

UNITED STATES OF AMERICA:

In the supreme court of the District of Columbia, February 11, 1865, in re, John Dugan on petition for habeas corpus.

I, Return J. Meigs, clerk of the supreme court of the District of Columbia, hereby certify that the writings annexed to this certificate are true copies of their respective originals on file and remaining of record in my office.

In testimony whereof, I have caused the seal of said court to be hereunto affixed, at the City Hall, in the city of Washington, this eleventh day of February, in the year of our Lord one thousand eight hundred and sixty-five, and of the independence of the United States the eighty-ninth.

R. J. MEIGS, *Clerk.*

Petition.

In re.—John Dugan.—In the supreme court of the District of Columbia.

To the honorable the justices of the supreme court of the District of Columbia:

The petition of Catharine Dugan sheweth that in the month of May
5 last John Dugan, the lawful husband of your petitioner, was arrested and, as she charges to be true, by a subordinate of one Lafayette C. Baker, claiming to be acting therein under the order of the Secretary of War, and without any warrant or other process for the arrest of said John Dugan; that he was then committed to a prison on the Capitol Hill, in the city of Washington, known as the Carroll Prison, under the charge of William P. Wood, where he hath been ever since and is now confined; that the Secretary of War never hath reported to this court the arrest and imprisonment, as aforesaid, of the said John Dugan, as required by law; that two terms of the criminal court of this District have been held and finished and two grand juries discharged since the said arrest and imprisonment of said Dugan, and a third term of said court has been held for six weeks past, and no present or indictment has been found against him, nor hath he ever had any judicial or other examination.

6 And she prays that the said John Dugan may be brought before your honors, his case inquired into, and he discharged, according to the act 3 March, 1863, 12 S stat., 755.

CATHARINE DUGAN.

JOS. H. BRADLEY, *for petitioner.*

Verification.

DISTRICT OF COLUMBIA, *Washington County, to wit:*

Catharine Dugan, whose name is signed to the petition on the other side hereof, makes oath according to law, before me, this 21st day of January, 1865, that the facts stated therein as of her own knowledge are true, and she believes those to be true which are stated on the information of others.

Sworn to before me Jan'y 21, 1865.

R. J. MEIGS, *Clerk.*

Award of writ.

Let the writ of habeas corpus issue as prayed, to bring the body of the said John Dugan before the supreme court of the District of Columbia, returnable on Tuesday next, the 24th instant, at 11 o'clock a. m.

ANDREW WYLIE.

Jan'y 21, 1865.

7 *Writ.*

In the supreme court of the District of Columbia, January 21, 1865, in re.—John Dugan, on the petition of Catharine Dugan, for a writ of habeas corpus.

The President of the United States to William P. Wood, keeper of the Carroll prison in said District, greeting:

You are hereby commanded to have the body of John Dugan, detained in the Carroll Prison, in said District, under your custody, as it is said, together with the day and cause of his being taken and detained, by whatever name he may be called in the same, before the supreme court of the said District, on Tuesday, January 24th, 1865, at 11 o'clock a. m., sitting in the City Hall, Washington City, to do and receive whatever shall then there be considered of in this behalf, and have you then and there this writ.

Witness D. K. Cartter, chief justice of said court, January 21, 1865.

RETURN J. MEIGS, *Clerk.*

Service.

Served copy of this writ on Charles H. Wilson, ass't keeper of the Old Capitol Prison, this 21st of January, 1865.

W. H. LAMON, *Marshal, D. C.*

8 *Suspension of the writ.*

The within-named John Dugan was arrested and is imprisoned by my authority. This writ of habeas corpus is suspended, and the officer having Dugan in custody is directed not to produce his body, but hold him in custody until further order, giving this order in your return to the court.

A. LINCOLN.

Jan. 23, 1865.

Return.

To the Hon. D. K. Carter, chief justice of the supreme court of the District of Columbia:

I hereby acknowledge due service of the writ hereto attached, and return the same, and respectfully say that the body of John Dugan is in my possession; that he was arrested and is imprisoned by the authority of the President of the United States; and that I do not produce his body by reason of the order of the President of the United States endorsed upon said writ, to which reference is hereby respectfully made.

Dated January 24, 1865.

WILLIAM P. WOOD,
Sup't Old Cap'l Prison.

Filed January 31, 1865.

9 *Prayer for leave to traverse return, and for attachment.*

Ex parte, John Dugan.—Petition for habeas corpus.

And the said William P. Wood, in writing, on the said writ of habeas cor-

pus made return that the said John Dugan is in his, the said William P. Wood's custody, and having failed to produce the body of the said John Dugan, as required by said writ, and made further return that he, the said John Dugan, is held in custody by authority of a certain order in writing endorsed upon the said writ, which is in the words and figures, as follows:

"The within-named John Dugan was arrested and is imprisoned by my authority. This writ of habeas corpus is suspended, and the officer having Dugan in custody is directed not to produce his body, but hold him in custody until further order, giving this order in your return to the court.

"A. LINCOLN.

"Jan. 23, 1865."

The said John Dugan prays leave to traverse, and by Jos. H. Bradley, his attorney, does traverse the said return, and says the same is wholly insufficient in law, and moves the honorable court for an attachment against the body of the said William P. Wood for his disobedience of the writ of
10 this court, requiring him to produce the body of the said John Dugan.

Leave to traverse and attachment denied.

In the supreme court of the District of Columbia, February 11, 1865.

In re.—John Dugan on petition for habeas corpus.

In this case, the writ having been issued as prayed, and the said William P. Wood, to whom the same was directed, having made his return, as appears on the back of and in the paper annexed to and referred to in said writ; and the said petitioner, by his counsel, having prayed leave to traverse the said return, and insisting that the same is wholly insufficient in law, and submitted a motion for an attachment against the body of the said William P. Wood for his disobedience of the writ of this court, requiring him to produce the body of said John Dugan; and this court having heard the argument of counsel, and having considered the said case, is of opinion, and doth order and adjudge, that the return so as aforesaid made by said William P. Wood is sufficient; and further doth hereby order and adjudge that the application of said petitioner for leave to traverse the said return, and also the motion of said petitioner for an attachment against the said Wil-
11 liam P. Wood, be, and the same is hereby, denied and overruled. And this court, finding that the said return of the said William P. Wood is sufficient, doth hereby further order and adjudge that the petition of the said petitioner, John Dugan, be, and the same is hereby, dismissed; and further, that the said John Dugan be, and he is hereby, remanded to the custody of the said William P. Wood, until the further order of the President in the premises.

By order of the court.

Filed February 17, 1865.